

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Adebimpe Adedoyin,

Petitioner,

CR-04-0480 (CPS)

- against -

United States of America,

Respondent.

MEMORANDUM
OPINION AND ORDER

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SIFTON, Senior Judge.

On June 17, 2004, Adebimpe Adedoyin pled guilty to knowingly and intentionally importing a kilogram of a substance containing heroin in violation of 21 U.S.C. § 952(a). Adedoyin was sentenced to a term of imprisonment of 37 months. Presently before the Court is Adedoyin's motion to modify or correct her sentence based on the Supreme Court's recent decision in *United States v. Booker*, 121 S.Ct. 738 (2005).¹ Adedoyin's conviction is presently on appeal to the Second Circuit. A criminal defendant may not collaterally attack her conviction until it has

¹ Adedoyin does not state pursuant to what rule or statute she purports to bring this motion. Motions to correct a sentence imposed by a federal court are ordinarily brought pursuant to 28 U.S.C. § 2255. Should Adedoyin choose to pursue future relief pursuant to 28 U.S.C. § 2255 after her conviction has been affirmed, she must characterize the motion accordingly. She should be aware, however, that unless certain narrow exceptions apply, a prisoner serving a federal sentence may only bring one § 2255 motion. Subsequent motions may be barred as successive. See *Adams v. United States*, 155 F.3d 582 (2d Cir. 1998). Because this motion has not been adjudicated on the merits, it will not constitute her first § 2255 motion. See *Villanueva v. United States*, 346 F.3d 55, 60 (2d Cir. 2003).

been affirmed on direct appeal. *Fassler v. United States*, 858 F.2d 1016, 1019 (5th Cir. 1988); see *United States v. Dukes*, 727 F.2d 34, 41 (2d Cir. 1984). Her motion is therefore premature and is denied without prejudice to its renewal after the Court of Appeals has issued the mandate.

The Clerk is directed furnish a filed copy of the within to all parties

SO ORDERED.

Dated : Brooklyn, New York

June 14, 2005

By: /s/ Charles P. Sifton (electronically signed)
United States District Judge